



General Assembly

February Session, 2014

***Raised Bill No. 5590***

LCO No. 2821



Referred to Committee on JUDICIARY

Introduced by:  
(JUD)

***AN ACT ESTABLISHING A PILOT PROGRAM FOR THE MEDIATION  
OF CONDOMINIUM-RELATED DISPUTES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2014*) (a) As used in this  
2 section:

3 (1) "Association" has the same meaning as provided in section 47-  
4 202 of the general statutes, and includes an "association of unit  
5 owners" as defined in section 47-68a of the general statutes;

6 (2) "Executive board" has the same meaning as provided in section  
7 47-202 of the general statutes, and includes a "board of directors" as  
8 defined in section 47-68a of the general statutes;

9 (3) "Unit" has the same meaning as provided in section 47-202 of the  
10 general statutes, and includes a "unit" as defined in section 47-68a of  
11 the general statutes; and

12 (4) "Unit owner" has the same meaning as provided in section 47-  
13 202 of the general statutes, and includes a "unit owner" as defined in

14 section 47-68a of the general statutes.

15 (b) The Chief Court Administrator of the Judicial Branch shall,  
16 within available appropriations, establish a pilot program for the  
17 mediation of disputes between individual unit owners or a unit owner  
18 and the executive board of an association. The Chief Court  
19 Administrator shall establish the pilot program in the Hartford, New  
20 Haven and Stamford-Norwalk judicial districts. The pilot program  
21 shall provide for the mediation of disputes between either two  
22 individual unit owners or a unit owner and the executive board of an  
23 association concerning the application and interpretation of (1) an  
24 association's bylaws, rules or regulations, or (2) the provisions of  
25 chapters 825 and 828 of the general statutes. Disputes related to a  
26 foreclosure action initiated against a unit owner shall not be eligible for  
27 the pilot program.

28 (c) Any unit owner or executive board member acting on behalf of  
29 an association with a dispute that meets the criteria set forth in  
30 subsection (b) of this section may file a request to participate in the  
31 pilot program at any court designated by the Chief Court  
32 Administrator to participate in the pilot program. Such request shall  
33 be: (1) In writing, on such form as the Chief Court Administrator  
34 prescribes, provided such form shall, at a minimum, set forth the  
35 names and addresses of any unit owner or executive board member  
36 acting on behalf of an association that may be a party to the dispute  
37 and a description of the specific nature of the dispute; (2) accompanied  
38 by a nonrefundable initiation fee of fifty dollars; and (3) filed at a court  
39 designated by the Chief Court Administrator to participate in the pilot  
40 program.

41 (d) Upon receipt of a request for participation in the pilot program,  
42 the court shall provide written notification of such request, by regular  
43 mail, to any unit owner or executive board member of an association  
44 identified in a request filed under subsection (c) of this section. Such  
45 written notification shall include any necessary forms that will need to

46 be completed and returned by a unit owner or executive board  
47 member to the court in the event that such unit owner or executive  
48 board member elects to participate in mediation of the dispute. Any  
49 unit owner or executive board member receiving a request to  
50 participate in mediation of the dispute may elect to accept or decline  
51 such request. If the unit owner or executive board member elects to  
52 participate in mediation, such unit owner or executive board member  
53 shall, not later than thirty days following the date of the written  
54 notification from the court, return to the court any forms that need to  
55 be completed in order to participate in the mediation along with a  
56 nonrefundable filing fee of two hundred fifty dollars. The court shall  
57 thereafter provide written notification, by regular mail, to the unit  
58 owner or executive board member that initiated the request for  
59 participation in the pilot program that: (1) Such request has been  
60 accepted, and (2) the mediation will be scheduled by the court upon  
61 payment of a nonrefundable two-hundred-dollar filing fee by the unit  
62 owner or executive board member who initiated the request for  
63 participation in the pilot program.

64 (e) Not later than ninety days after receipt of all filing forms and  
65 fees, the court shall set the date, time and place for the mediation  
66 session. The court shall provide written notification of the mediation  
67 session, by regular mail, to any unit owner or executive board member  
68 identified in the request for mediation. The presiding judge of the civil  
69 session of the court in which the request for mediation has been filed  
70 shall select a special master to conduct the mediation session from the  
71 list of special masters compiled by the Office of the Chief Court  
72 Administrator pursuant to section 2 of this act. The special master shall  
73 be a member of the bar of this state who possesses demonstrated  
74 knowledge in condominium law. The special master shall receive no  
75 compensation for his or her services.

76 (f) The special master shall attempt to mediate a voluntary  
77 resolution of the dispute between individual unit owners or the unit  
78 owner and the executive board member acting on behalf of an

79 association, as the case may be. Either party to the mediation may  
80 withdraw from mediation at any time during the process after  
81 providing notice to the other party and the special master. In addition,  
82 the special master may terminate the mediation upon finding that  
83 further efforts to mediate the dispute would be futile. If a resolution of  
84 the dispute is achieved, the special master shall assist the parties to the  
85 dispute in the preparation of a written agreement setting forth the  
86 specific terms of the agreement. The written agreement shall be signed  
87 by the parties to the mediation and the special master.

88 (g) No participant in the mediation shall voluntarily disclose or,  
89 through discovery or compulsory process, be required to disclose any  
90 oral or written communication received or obtained during the course  
91 of the mediation, unless (1) each of the other participants agree in  
92 writing to such disclosure, (2) the disclosure is necessary to enforce a  
93 written agreement that resulted from the mediation, (3) the disclosure  
94 is required by statute or regulation, or by any court, after notice is  
95 provided to all participants in the mediation, or (4) the disclosure is  
96 required as a result of circumstances in which a court finds that the  
97 interest of justice outweighs the need for confidentiality, consistent  
98 with the principles of law.

99 (h) The remedies provided under this section are not exclusive and  
100 are in addition to any other remedies in any section of the general  
101 statutes or which are available under common law.

102 (i) The presiding judge of the civil session of a court that has been  
103 selected to participate in the pilot program shall maintain statistical  
104 data, on an annual basis, concerning the administration of the pilot  
105 program. Such data shall include, but not be limited to, the number of  
106 requests received to participate in the pilot program, the number of  
107 requests that resulted in a mediation session being held, and whether  
108 the mediation session resulted in resolution of the dispute.

109 (j) Not later than January 15, 2017, the Chief Court Administrator

110 shall report, in accordance with the provisions of section 11-4a of the  
111 general statutes, to the joint standing committee of the General  
112 Assembly having cognizance of matters relating to the judiciary on the  
113 pilot program data compiled pursuant to subsection (i) of this section.

114       Sec. 2. (NEW) (*Effective from passage*) (a) On or before September 30,  
115 2014, the Chief Court Administrator shall prescribe the qualifications  
116 that an attorney must possess in order to serve as special master for the  
117 pilot program established under section 1 of this act. The qualifications  
118 prescribed by the Chief Court Administrator shall, at a minimum,  
119 require that such attorney: (1) Be a member of the bar of this state, (2)  
120 has engaged in the practice of law for not less than ten years, and (3)  
121 has engaged in the practice of condominium law for not less than  
122 seven years.

123       (b) Upon the establishment of special master qualifications by the  
124 Chief Court Administrator under subsection (a) of this section, the  
125 Office of the Chief Court Administrator shall develop an application  
126 process for any attorney who seeks to serve as special master for the  
127 pilot program established under section 1 of this act. The Office of the  
128 Chief Court Administrator shall maintain a list of those attorneys who  
129 are qualified to serve as a special master for the pilot program and  
130 make such list available to each presiding judge of the civil session of a  
131 court designated to participate in the pilot program.

132       Sec 3. Section 47-216 of the general statutes is repealed and the  
133 following is substituted in lieu thereof (*Effective October 1, 2014*):

134       (a) Except as provided in section 47-217, sections 47-202, 47-204, 47-  
135 205, 47-206, 47-218, 47-221, 47-222, 47-223, subsections (b), (d), (i) and  
136 (j) of section 47-236, sections 47-237, 47-240 and 47-244, subsection (f) of  
137 section 47-245, sections 47-250, 47-251, 47-252, 47-253, 47-255, 47-257,  
138 47-258, 47-260, 47-261b, 47-261c, 47-261d, 47-261e, 47-270, [and] 47-278,  
139 1 and 2 of this act, to the extent necessary in construing any of those  
140 sections, apply to all common interest communities created in this state

141 before January 1, 1984; but those sections apply only with respect to  
142 events and circumstances occurring after January 1, 1984, and do not  
143 invalidate existing provisions of the declaration, bylaws or surveys or  
144 plans of those common interest communities.

145 (b) Section 47-210 and subsections (b) to (d), inclusive, of section 47-  
146 225 apply to all common interest communities created in this state  
147 prior to January 1, 1984, but shall not invalidate existing provisions of  
148 the declarations, bylaws or surveys or plans of those common interest  
149 communities.

|   |                        |             |
|---|------------------------|-------------|
| This act shall take effect as follows and shall amend the following sections: |                        |             |
| Section 1   | <i>October 1, 2014</i> | New section |
| Sec. 2  | <i>from passage</i>    | New section |
| Sec 3   | <i>October 1, 2014</i> | New section |

***Statement of Purpose:***

To require the Chief Court Administrator to establish a pilot program to facilitate the resolution of certain condominium-related disputes through a mediation process.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*